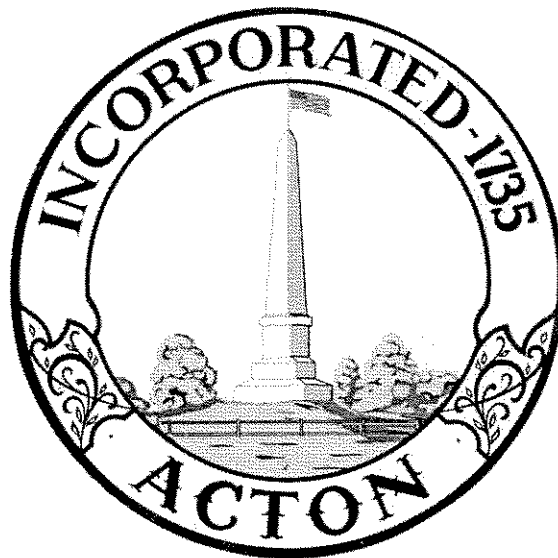


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PM

Town of Acton

Special Town Meeting Warrant



Monday, June 13, 2005

**The Annual Town Meeting will convene at 7:00 P.M. in the
Acton-Boxborough Regional High School Auditorium
36 Charter Road**

Notice of Meeting

**Special Town Meeting
Monday, June 13, 2005
7:00 P.M.**

Acton-Boxborough Regional High School Auditorium

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* Article is on Consent Calendar

Article submitted by Citizen Petition

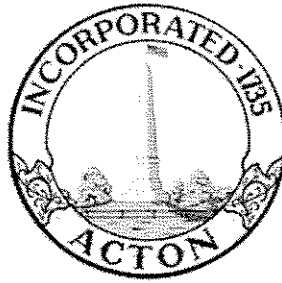
Board of Selectmen's Message

May 23, 2005

This Town Meeting Warrant is your invitation to participate in the legislative portion of Acton's town government. Acton citizens have a longstanding tradition of governing themselves by means of an open Town Meeting. In order to achieve the best results we need your participation and encourage all Acton residents to attend. All registered voters are urged to participate in the debate and vote on the Articles presented. Other residents, even if they are not registered voters, are invited to attend and observe, or to view the proceedings on cable television channel 8.

Peter K. Ashton, Chair
Walter M. Foster, Vice-Chair
Robert Johnson, Clerk
F. Doré Hunter, Member
Lauren Rosenzweig, Member

Board of Selectmen



**TOWN OF ACTON
SPECIAL TOWN MEETING WARRANT**

Commonwealth of Massachusetts, ss.

To either of the Constables of the Town of Acton, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the legal voters of said Town of Acton, qualified to vote at Town Meeting for the transaction of town affairs, to meet in Acton-Boxborough Senior High School Auditorium, 36 Charter Road, Acton Massachusetts on June 13, 2005 at 7:00 PM for a Special Town Meeting.

Legend

One or more of the following symbols may follow an Article number:

| <u>Symbol</u> | <u>Description</u> |
|----------------------|--|
| * | This article is on the Consent Calendar |
| # | This article submitted by Citizen Petition |

Articles

ARTICLE 1 NESWC ENTERPRISE BUDGET (Majority vote)

To see if the Town will raise and appropriate, or appropriate from available funds a sum of money for the purpose of solid waste disposal in accordance with Massachusetts General Law, Chapter 44, Section 53F½, Enterprise Fund Law, or take any other action relative thereto.

SUMMARY

At the April 2005 Annual Town Meeting the voters funded a two-day per week (Wednesday and Saturday), Transfer Station operation for residents only.

The approval of this article for approximately \$40,000 would fund operation of the Transfer Station (residents only) on a five-day a-week basis. The amount requested under this article would be funded from a surcharge placed on first sticker sales at the Transfer Station. The surcharge is expected to be approximately \$15 per sticker.

Direct inquiries to: Bruce Stamski, DPW Director
 Engineering@acton-ma.gov / (978) 264-9612
Selectman assigned: :
 bos@acton-ma.gov

Recommendations: Board of Selectmen Finance Committee

ARTICLE 2
(Majority vote)

NON-BINDING RESOLUTION – TRASH FEE PRICING MODEL

NON-BINDING RESOLUTION

Whereas the Town owns and operates a Solid Waste Transfer Station on land located off Route 2.

Whereas the Town's long-term NESWC Service Agreement is expiring on September 25, 2005.

Whereas, in connection with that expiration, the Board of Selectmen is reevaluating operations and pricing methodologies at the Transfer Station.

Whereas the transfer station is an important amenity for many Town residents

Whereas State Government and many environmental activists claim, there are both financial and environmental benefits associated with a pricing model based upon the volume of trash discarded by each user ("pay-as-you-throw").

NOW THEREFORE, BE IT RESOLVED, that Town Meeting requests that the Board of Selectmen and the Town Manager implement a combination flat fee (sticker) and a charge per bag of trash discarded (pay-as-you-throw) pricing model at the Transfer Station for the trial period of October 1, 2005 through September 30, 2006, and provide an interim report as to the benefits and drawbacks of such a pricing model to the April 2006 Annual Town Meeting.

Direct inquiries to: John Murray, Assistant Town Manager
manager@acton-ma.gov / (978) 264-9612

Selectman assigned: : bos@acton-ma.gov

Recommendations: **Board of Selectmen** **Finance Committee**

ARTICLE 3 ACQUISITION OF STATE-OWNED LAND

(Two-thirds vote)

To see if the Town will authorize the Board of Selectmen to acquire or take, on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise and to accept deeds of the fee simple interest in two certain parcels of land together comprising approximately 7.646 +/- acres located off Charter Road adjacent to Route 2, identified as Acton Assessor's Map E3, Parcel 85, and Map E3, Parcel 93, and described in two separate deeds recorded in the Middlesex South District Registry of Deeds in Book 7650, Page 311 and in Book 7866, Page 367, and further to see if the Town will raise, appropriate, transfer from available funds, or accept gifts for this purpose, or take any other action relative thereto.

SUMMARY

The Commonwealth's Division of Capital Asset Management ("DCAM") has scheduled an auction for June 28, 2005, of two abutting parcels of surplus state-owned land adjacent to Route 2. The land is vacant, relatively flat, and vegetated. It was acquired by the state for highway purposes but is no longer needed for that purpose. The land has no access to Route 2 and is apparently land-locked. However, in combination with a frontage parcel, the land has significant development potential. The Town would acquire the land for general municipal purposes and determine at a future Town Meeting the appropriate use or disposition of the property.

Direct inquiries to: Don Johnson, Town Manager
Selectman assigned:

Recommendations: **Board of Selectmen** **Finance Committee**

ARTICLE 4 LANDFILL COVER BYLAW
(Majority vote)

To see if the Town will vote to amend the general Bylaws of the Town by adding the following new Chapter U after Chapter T:

Chapter U: Landfill Cover Bylaw We have a Groundwater protection by-law

1. Authority

This Bylaw is adopted by the Town under its Home Rule Authority, its Police Powers to protect the public safety and welfare and its authorization under Massachusetts's General laws, c. 40, section 21 and c. 111, section 31.

2. Purpose

The purpose of this Bylaw is to protect, preserve, and maintain the Town's existing and potential groundwater supply, groundwater recharge areas, surface waters, air quality and natural environment and to assure public health and safety through the proper management of materials regulated herein.

3. Definitions

For purposes of this bylaw, the following terms shall have the following meanings:

3.1 "Asbestos" means all asbestiform varieties of the mineral family called silicates including: serpentinite (chrysotile), riebeckite (crocidolite), cuming- tonitegrunerite (atmosite), tremolite-actinolite, and anthophyllite as defined in the DEP's Air Quality Regulations at 310 CMR 7.00.

3.2 "Asbestos-Containing Material" means friable asbestos and any material containing 1% or more asbestos by weight. This term includes but is not limited to sprayed-on and troweled-on materials applied to ceilings, walls, and ceilings, walls, and other surfaces, insulation on pipes, boilers, tanks, ducts, and other equipment, structural members, tiles, shingles or asbestos-containing paper, as defined in the DEP's Air Quality Regulations at 310 CMR 7.00.

3.3 "Asbestos-Containing Waste Material" means any friable asbestos-containing material removed during a demolition/renovation project and anything contaminated in the course of a demolition/renovation project including asbestos waste from control devices, bags or containers that previously contained asbestos, contaminated clothing, materials used to enclose the work area during the demolition/renovation operation, and demolition/renovation debris, as defined in the DEP's Air Quality Regulations at 310 CMR 7.00.

3.4 "Asbestos in Soil" means unconsolidated fibers of asbestos contained in the soil matrix that did not originate from asbestos manufacturing, fabricating, milling, or spraying operations as defined in DEP's draft revisions to 310 CMR 19.0006 as amended. Asbestos in soil does not include "Asbestos-Containing Material" or "Asbestos-Containing Waste Material" as those terms are defined in the DEP's Air Quality Regulations at 310 CMR 7.00.

3.5 “Asbestos Waste” shall mean any material containing one percent or more asbestos by weight and anything contaminated with asbestos such as asbestos from pollution control devices, bags or containers that previously contained asbestos, contaminated clothing, demolition/renovation debris. As defined herein “asbestos waste” shall include, but is not limited to, “asbestos waste,” “asbestos-containing material” and “asbestos-containing waste material” as defined in 310 CMR 7.00 and 310 CMR 19.00, as amended.

3.6 “Board” shall mean the Acton Board of Health.

3.7 “Bylaw” shall mean this bylaw applicable to protection of groundwater.

3.8 “Construction and Demolition Debris” shall mean the waste building materials and rubble resulting from the construction, remodeling, repair or demolition of buildings, pavements, roads or other structures. “Construction and demolition waste” shall include, but is not limited to, concrete, bricks, lumber, masonry, road paving materials, rebar and plaster and all other “construction and demolition waste” as defined in Massachusetts Solid Waste Regulations 310 CMR 19.00, as amended.

3.9 “Contaminated soil” shall mean soil that contains oil and/or hazardous materials as a result of a release to the environment. This includes anthropogenic contaminants, regardless of whether the contaminant levels exceed the applicable Reportable Concentration (RC) under section 310 CMR 40.1600 of the Massachusetts Contingency Plan (MCP). As defined herein, “contaminated soil” shall include, but is not limited to, “contaminated soil” as defined in DEP’s Policy COMM-97-001.

3.10 “DEP” shall mean the Department of Environmental Protection and/or its successors.

3.12 “Landfill” shall mean the former Town of Acton municipal landfill located off Forest Road in Acton, the boundaries of which are shown on the MassGIS solid waste data layer.

3.13 “Flood Zone” shall mean the flood plain, defined by the Federal Emergency Management Agency “Flood Insurance Study, Town of Acton” January 6, 1988, as amended, or as shown on the MassGIS FEMA flood zone data layer. In the event of a conflict, the broader shall control.

3.14 Zone 1” shall be that area defined as “Zone 1 - The Wellhead Protection Area” by Section 4.3.2.1 of the Acton Zoning Bylaw’s Groundwater Protection District Regulations.

3.15 “DEP Approved Wellhead Protection Area” means the protective radius around a public water supply well or wellhead which has been approved by DEP as show on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 on file with the Town Clerk of the Town of Acton or subsequent map produced by Mass. GIS. In the event of a conflict, the broader shall control.

3.16 “Zone 2” means that area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation). See 310 CMR 22.02. Zone 2 shall include (a) all areas in the Town of Acton defined as “Zone 2 - The Recharge Protection Area” by Section 4.3.2.2 of the Acton Zoning Bylaw’s Groundwater Protection District regulations, and (b) all areas in the Town of Acton depicted as Zone 2 as shown on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 on file with the Town Clerk of the Town of Acton or subsequent produced by Mass. GIS. In the event of a conflict, the broader shall control.

3.17 "IWPA" means the Interim Wellhead Protection Area, an area extending to a one-half mile radius from a public water supply wellhead with an approved pumping rate of 100,000 gallons per day or greater, that is intended to protect the wellhead pending the delineation of its Zone 2, as shown on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 on file with the Town Clerk of the Town of Acton or subsequent map produced by Mass. GIS. In the event of a conflict, the broader shall control. See 310 CMR 22.02.

3.18 "Potentially productive aquifer(s)" means all aquifers located completely or partially within Acton delineated by the U.S. Geological Survey as a high or medium yield aquifer, as shown on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 on file with the Town Clerk of the Town of Acton or subsequent map produced by Mass. GIS. In the event of a conflict, the broader shall control. See 310 CMR 40.0006.

3.19 "Resource Area" means and includes each and all of the following areas in the Town of Acton:

- a. Zone 1 of all public water supply wells,
- b. All DEP Approved Wellhead Protection Areas,
- c. Zone 2 of all public water supply wells,
- d. 500 foot radius around any private water supply well,
- e. 500 foot radius from a surface water body or wetland,
- d. ALL IWPA's for a Public Water Supply, and
- e. All Potentially Productive Aquifers.

4. General Rules

No person or governmental entity shall use asbestos, asbestos in soil, asbestos waste, construction and demolition debris, or contaminated soil as solid fill, daily cover, intermediate cover, and/or pre-capping contour material on the former town of Acton municipal landfill or within 500 feet of any Resource Area or within 500 feet of any Flood Zone.

5. Penalties for Violation

Violation of this Bylaw shall be punishable by a fine of three hundred dollars per offense. Each day a violation continues shall be considered a separate offense. Any sums of money collected as fines shall be paid forthwith into the general revenues of the Town.

6. Severability

In case any section, paragraph or part of this chapter is for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

7. Effective Date

This chapter shall take effect in accordance with M.G.L. c.40, section 32. This Bylaw shall not apply to any materials used or stockpiled for later use on the former town of Acton municipal landfill or in any Resource Area or in any Flood Zone prior to the effective date hereof.

Or take any other action relative thereto.

SUMMARY

Direct inquiries to:

Selectman assigned:

Recommendations: Board of Selectmen Finance Committee

ARTICLE 5 NON-BINDING RESOLUTION - DEVELOPMENT OF MUNICIPAL LAND (Majority vote)

NON-BINDING RESOLUTION

Whereas at the April 1990 Annual Town Meeting, the Town adopted certain Goals and Objectives as the overall policy statement of the Acton Master Plan, representing the sense of five public meetings held by the Planning Council in May and September of 1989.

Whereas these Goals and Objectives provide a broad direction for Acton's approach to future growth and development, and gave guidance for the final effort of completing the Town's Master Plan in 1990.

Whereas, Article 3 of these Goals and Objectives states, in part:

Direct commercial and industrial development to serve the needs of Acton, to protect Acton's natural environment and other resources, and to be consistent with Acton's New England town character.

- *Maintain the diversity of commercial enterprise in Acton.*
- *Encourage small business in the village centers.*
- *Discourage strip development and commercial and industrial sprawl.*
- *Encourage improvements to the general appearance of commercial establishments.*
- *Limit future commercial and industrial development.*
- *Permit only commercial and industrial uses which do not have the potential to significantly degrade Acton's environmental and natural resources."*

And,

"Policies and procedures of Town government must be consistent with the Master Plan.

- *Require that the objectives and policies of each board, committee, and department be consistent with the goals and objectives of Acton's Master Plan.*
- *Encourage coordination and communication among boards, committees, and departments on matters relating to land use management and Town development.*
- *Minimize Town expenditures by maximizing the use of federal, state and private funding options.*
- *Use the Master Plan as a guideline when making funding decisions and recommendations."*

Whereas Article 3.5.1 of the Zoning BYLAW states in pertinent part:

“Retail Store – An establishment with not more than 60,000 square feet in NET FLOOR AREA selling merchandise within a BUILDING to the general public. Said merchandise is not intended for resale. A Retail Store may have one or more vendors within it and may occupy one whole BUILDING or a portion of a BUILDING. If a Retail Store occupies a portion of a BUILDING, its retail space shall be separated from other Retail Stores by complete walls or partitions, and customers must pay for purchases and exit the Retail Store before entering another Retail Store. A garden center, florist, or commercial greenhouse may have open-air display of horticulture products.”

NOW THEREFORE, BE IT RESOLVED, to instruct all Town Boards, Committees and Departments, to neither issue requests for proposals nor accept proposals for development of Municipal property that do not conform to the Town’s Master Plan and 3.5.1 of the Zoning BYLAW, nor to enter into any purchase and sales agreement for municipal property that does not conform to the Town’s Master Plan and Section 3.5.1 of the Zoning BYLAW.

SUMMARY

Direct inquiries to:
Selectman assigned:

Recommendations: **Board of Selectmen** **Finance Committee**

And you are directed to serve this Warrant by posting attested copies thereof fourteen days at least before the time of said meeting, in not less than six public places in Town, to be designated by the Board of Selectmen.

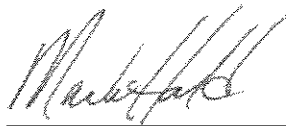
Hereof fail not, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at or before the time of said meeting.

Given under our hands at Acton this twenty-third day of May, 2005.

Peter K. Ashton, Chair
Walter M. Foster, Vice-Chair
Robert Johnson, Clerk
F. Doré Hunter, Member
Lauren Rosenzweig, Member

Board of Selectmen

A true copy, Attest:



Constable of Acton

PRSRT STD

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